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FILED

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SECRETARY, BOARD OF
OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS, AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

Request for Approval
Of a UDOT Reclamation
Contract Agreement

PETITION FOR APPROVAL

Docket No. 2007-005
Cause No. M/011/0003
Case No.

PETITION

The Utah Department of Transportation ("UDOT") petitions the Board to approve a self bonding written contract agreement between UDOT and the Utah Division of Oil, Gas, and Mining ("Division") for the reclamation of the Beck Street Quarry.

STATUTORY BASIS

U.C.A. 40-8-14(1) requires a mine operator to "provide surety to the division, in a form and amount determined by the division or board"

U.C.A. 40-8-14(3) (a) & (b) grants the board authority to approve "reclamation surety in the form of a written contractual agreement" taking into consideration the mine operators financial status, assets within the state, past performance in complying with contractual agreements and facilities available to carry out the planned work.

FACTS

1. UDOT owns property along Beck Street that it plans to operate as a quarry for road building materials.
2. The Division is the state agency charged with oversight and regulatory responsibility over mining operations. See, *U.C.A. 40-8-5*
3. The Division is required to assure that all mined lands will be reclaimed and that a surety is provided to insure that reclamation will occur. See, *U.C.A. 40-8-14*
4. The Division has verified it will cost \$347,100 to reclaim the Beck Street Quarry. See, *Self-Bonding Agreement, as provided.*
5. The Division and UDOT have entered into a written contractual agreement binding UDOT to designate discretionary funds in the amount of \$347,100 to reclaim the quarry property, and confirming that the discretionary funds for quarry reclamation is \$500,000. See, *Self-Bonding Agreement, as provided.*
6. The Division and UDOT jointly recommend the Board approve the written contractual agreement as surety for the reclamation of the quarry. See, *Self-Bonding Agreement, as provided.*

BASIS FOR APPROVAL

Utah law recognizes that it can be "necessary to alter the surface of the earth to extract minerals required by our society, but this should be done in such a way as to minimize undesirable effects on the surroundings." *U.C.A. 40-8-2(2)*. As a result, mined land "should be reclaimed so as to prevent conditions detrimental to the general safety and welfare of the citizens of the state and to provide for the subsequent use of the land affected." *U.C.A. 40-8-2(3)*.

In this instance, the Beck Street Quarry will provide road-building material for Utah's roads and will need to be reclaimed. UDOT has the authority to designate discretionary funds (without additional legislative approval) in the amount of \$500,000 for the Beck Street quarry reclamation, an amount in excess of the surety required by the Division. UDOT, through a written contractual agreement with the Division, has bound itself to exercise its discretionary funding capability to reclaim the quarry.

As to the statutory considerations, UDOT has sufficient financial status, assets and facilities within the state to qualify for self-bonding status. Likewise, UDOT has the legal capacity to sue or be sued and acknowledges and agrees that the Division, if necessary, "may exercise any and all remedies available to it" should any problems develop. *See, Self-Bonding Agreement, as provided.*

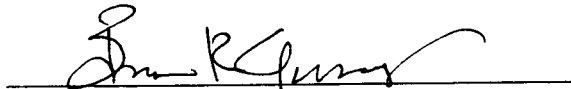
Finally, the Division is satisfied with the contractual surety agreement and jointly recommends that the Board approve this petition.

RELIEF REQUESTED

UDOT respectfully requests the Board to approve the written contractual agreement with the Division as surety to reclaim the Beck Street Quarry.

DATED this 26th day of February, 2007

UTAH ATTORNEY GENERAL'S OFFICE

A handwritten signature in dark ink, appearing to read "Bruce R. Garner", is written over a horizontal line.

Bruce R. Garner
Assistant Attorney General, Counsel for UDOT

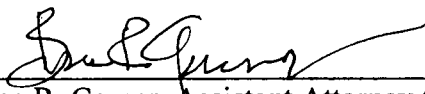
CERTIFICATE OF MAILING

I certify that I have mailed this PETITION FOR APPROVAL to the following:

Steven F. Alder
Utah Attorney General's Office
Counsel to the Division of Oil, Gas, and Mining
1594 West North Temple #300
Salt Lake City, Utah 84116

DATED this 26th day of February, 2007

UTAH ATTORNEY GENERAL'S OFFICE



Bruce R. Garner, Assistant Attorney General